

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:08-cr-175

Also 3:11-cv-299

- vs -

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

JEREMY LEWIS,

Defendant.

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**DECISION AND ORDER AFFIRMING THE MAGISTRATE  
JUDGE'S NOTATION ORDER STRIKING MOTION TO VACATE  
(2255) AS TO JEREMY E. LEWIS PER ECF NO. 388 (DOC. NO.  
419)**

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This § 2255 case is before the Court on Defendant's Appeal (ECF No. 420) from the Magistrate Judge's Order (ECF No. 419) striking Lewis's most recent motion for relief from judgment (ECF No. 418).

Lewis is entitled to appeal to the District Court because the Magistrate Judge's Order has the effect of denying his most recent motion for relief from judgment, but cannot be appealed to the Sixth Circuit because there has been no unanimous consent of the parties to Magistrate Judge jurisdiction in this case such that any final appealable order must be entered by the assigned Article III judge.

Nevertheless, Lewis's appeal is barren of any reasons why the Magistrate Judge's Order is in error. The Magistrate Judge acted in conformity to this Court's Order of November 18, 2021, that Lewis must seek and obtain leave of court before filing any further motions under Fed.R.Civ.P. 60(b) (ECF No. 388). Because Lewis neither sought nor obtained leave of court before filing his most recent motion for relief from judgment, it was subject to being stricken. Because this 2255 case has been referred to the Magistrate Judge from the outset, he had authority to note that Lewis's most recent motion for relief did not facially comply with the out's prior order and to strike the non-conforming motion.

The appeal is without merit. The Magistrate Judge's Order striking the most recent motion for relief from judgment (ECF No. 418) is AFFIRMED.

**DONE and ORDERED** in Dayton, Ohio, this Thursday, October 3, 2024.

s/Thomas M. Rose

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE